

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7532

BILL NUMBER: HB 1527

NOTE PREPARED: Dec 30, 2004

BILL AMENDED:

SUBJECT: Ephedrine and Pseudoephedrine.

FIRST AUTHOR: Rep. Alderman

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill permits ephedrine and pseudoephedrine to be dispensed only: (1) at a pharmacy by a licensed pharmacist or certified pharmacy technician; and (2) in a package that contains not more than 12 capsules. It requires a person who purchases ephedrine or pseudoephedrine to present photo identification and sign a receipt or record book. It makes unlawful dispensing of ephedrine or pseudoephedrine a Class D felony.

The bill designates ephedrine and pseudoephedrine as Schedule V controlled substances. It makes the possession of more than nine grams of ephedrine or pseudoephedrine over a 30-day period a Class D felony. The bill also exempts ephedrine or pseudoephedrine that is in liquid form or dispensed upon a prescription from the dispensing and possession restrictions.

Effective Date: July 1, 2005.

Explanation of State Expenditures: This bill makes it a Class D felony for unlawfully dispensing certain forms of ephedrine or pseudoephedrine and for possessing more than nine grams of ephedrine or pseudoephedrine. The bill also includes certain forms of ephedrine or pseudoephedrine as Schedule V controlled substances. Currently, it is a Class D felony to possess, deliver, or manufacture a Schedule V controlled substance in violation of state and federal law.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does

not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Controlled Substance Excise Tax: A tax is imposed upon a person who receives delivery of, takes possession of, or manufactures a controlled substance in violation of state or federal law. The tax on a Schedule V controlled substance is \$10 per gram, pill, capsule, hit, rock, or dosage. Revenue generated from this tax is deposited in the Controlled Substance Tax Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

Fiscal Analyst: Valerie Ruda, 317-232-9867.